



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION 4
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GEORGIA 30303-8960**

March 17, 2023

Secretary Emile D. Hamilton
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Subject: FDEP Permit App. No. 416255-001-SFI, Florida Department of Transportation
c/o Casey Lyon, M.S., Pioneer Trail Interchange

Dear Secretary Hamilton:

This letter is in further regard to the Florida Department of Environmental Protection's (FDEP) above-referenced public notice for a Clean Water Act (CWA) Section 404 permit application dated July 6, 2022. Ninety (90) days have elapsed since the U.S. Environmental Protection Agency's October 4, 2022 objection to the issuance of a permit for the proposed project. The FDEP neither satisfactorily resolved EPA's objection nor denied the permit application within this timeframe. Accordingly, pursuant to CWA Section 404(j) and 40 C.F.R. § 233.50(j), the authority to process Florida Department of Transportation's permit application has transferred to the U.S. Army Corps of Engineers.

In our objection letter, the EPA indicated that, in order to address the federal objection, FDEP needed to demonstrate that the project complies with the 404(b)(1) Guidelines, including fully characterizing the project purpose and addressing the requirements for analysis of alternatives, avoidance and minimization measures, consideration of cumulative effects, and providing compensatory mitigation to fully offset all unavoidable impacts. We also indicated that, in order to address the federal objection, FDEP needed to issue a public notice that includes a complete description of the project purpose, a description of the anticipated cumulative impacts, and any other relevant information based on an updated alternatives analysis.

On December 13, 2022, the EPA received an email from FDEP in response to the objection which included information regarding public participation on the project that occurred outside of the CWA Section 404 process. The information provided did not address the objection because it failed to demonstrate: (1) that the project, based on the complete project purpose (including economic development, as disclosed in the applicant's Indirect and Cumulative Effects Evaluation, January 2020) complies with the 404(b)(1) Guidelines; and (2) that FDEP issued a CWA Section 404 public notice that includes a complete description of the project purpose, with an updated analysis of alternatives and other relevant information (i.e., consideration of avoidance, minimization, compensatory mitigation, and cumulative effects based on the complete project purpose).

Enclosed for your reference is a copy of EPA's October 4, 2022 letter regarding the objection. If you have any questions regarding this letter, please contact me or Ms. Rosemary Calli, Wetlands and Streams Regulatory Section Chief, at calli.rosemary@epa.gov or 404-562-9846.

Sincerely,

Daniel Blackman
Regional Administrator

Enclosure

cc: Colonel James Booth, District Engineer
Jacksonville District, U.S. Army Corps of Engineers